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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,405	12/28/2000	Stephan J. Jourdan	2207/7085	5261
25693	7590	11/19/2004	EXAMINER	
KENYON & KENYON (SAN JOSE) 333 WEST SAN CARLOS ST. SUITE 600 SAN JOSE, CA 95110			LI, AIMEE J	
			ART UNIT	PAPER NUMBER
			2183	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/749,405	JOURDAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aimee J Li	2183	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 August 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-8, 10-15 and 17-27 is/are rejected.

7) Claim(s) 9 and 16 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. Claims 1-27 have been considered. Claims 1, 6, and 25 have been amended as per Applicant's request.

### ***Claim Objections***

2. Claims 9 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 24-26 are rejected under 35 U.S.C. 102(b) as being taught by Tran, U.S. Patent Number 5,822,575 (herein referred to as Tran).

5. Referring to claim 24, Tran has taught a method for restoring a branch prediction apparatus following a branch misprediction of a branch instruction, comprising:

- a. Restoring a base misprediction history register (Tran column 14, line 14 to column 15, line 7; column 18, lines 44-62; column 19, lines 31-49; Figure 3; and Figure 4); and
- b. Restoring a branch predictor history register (Tran column 14, line 14 to column 15, line 7; column 18, lines 44-62column 19, lines 31-49; Figure 3; and Figure 4).

6. Referring to claim 25, Tran has taught updating a branch predictor (Tran column 14, line 14 to column 15, line 7; column 18, lines 44-62column 19, lines 31-49; Figure 3; and Figure 4).
7. Referring to claim 26, Tran has taught updating a meta predictor (Tran column 14, line 14 to column 15, line 7; column 18, lines 44-62column 19, lines 31-49; Figure 3; and Figure 4).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-8, 10-15, and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang, Hao, and Patt's "Alternative Implementations of Hybrid Branch Predictors" (herein referred to as Patt) in view of McFarling's "WRL Technical Note TN-36: Combining Branch Predictors" (herein referred to as McFarling).

10. Referring to claim 1, Patt has taught a branch prediction apparatus, comprising:
  - a. A meta predictor to receive as inputs an index value and a branch prediction to generate a misprediction value in accordance with said inputs (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2); and
  - b. A logic gate to receive said branch prediction and said misprediction value to generate a final prediction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

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11. Patt has not taught a base misprediction history register providing an output. McFarling has taught a base misprediction history register providing an output (McFarling page 12, paragraph 2). In regards to McFarling, the counter is similar to the misprediction history register, since it contains data related to past mispredictions. A person of ordinary skill in the art at the time the invention was made would have recognized that the counter tracks which predictor is more accurate, thereby ensuring the combined branch predictor picks the best predictor to use and reducing mispredictions which cost time. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the misprediction history register of McFarling in the device of Patt.

12. Referring to claim 2, Patt has not taught wherein said base misprediction history register includes misprediction history data. McFarling has taught wherein said base misprediction history register includes misprediction history data (McFarling page 12, paragraph 2). In regards to McFarling, the counter is similar to the misprediction history register, since it contains data related to past mispredictions. A person of ordinary skill in the art at the time the invention was made would have recognized that the counter tracks which predictor is more accurate, thereby ensuring the combined branch predictor picks the best predictor to use and reducing mispredictions which cost time. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the misprediction history register of McFarling in the device of Patt.

13. Referring to claim 3, Patt has taught an instruction that provides said index value (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

14. Referring to claim 4, Patt has taught wherein said instruction is a branch instruction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2)
15. Referring to claim 5, Patt has taught wherein said final prediction determines a branch for said branch instruction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).
16. Referring to claim 6, Patt has taught a branch predictor that receives said index value and generates said branch prediction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).
17. Referring to claim 7, Patt has taught wherein said branch predictor utilizes a prediction scheme to generate said branch prediction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).
18. Referring to claim 8, Patt has taught wherein said branch predictor includes a target address field and a prediction table (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).
19. Referring to claim 10, Patt has taught a method for predicting branches, comprising:
  - a. Receiving an index value and a branch prediction value correlating to said index value at a meta predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2); and
  - b. Generating a misprediction value at said meta predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

20. Patt has not taught a misprediction history value. McFarling has taught a misprediction history value (McFarling page 12, paragraph 2). In regards to McFarling, the counter is similar to the misprediction history register, since it contains data related to past mispredictions. A person of ordinary skill in the art at the time the invention was made would have recognized that the counter tracks which predictor is more accurate, thereby ensuring the combined branch predictor picks the best predictor to use and reducing mispredictions which cost time. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the misprediction history register of McFarling in the device of Patt.

21. Referring to claim 11, Patt has taught generating said branch prediction value at a branch predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

22. Referring to claim 12, Patt has taught receiving an index value at said branch predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

23. Referring to claim 13, Patt has taught generating a final prediction according to said branch prediction and said misprediction value (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

24. Referring to claim 14, Patt has taught determining a final value, and updating said meta predictor and said base misprediction history register according to said final value (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

25. Referring to claim 15, Patt has taught wherein said updating includes comparing said final value to said branch prediction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

26. Referring to claim 17, Patt has taught a processor, comprising:

- a. A branch predictor to generate a branch prediction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2);
- b. A meta predictor that receives an index value, said branch prediction data to generate a misprediction value (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

27. Patt has not taught a base misprediction history register. McFarling has taught a base misprediction history register (McFarling page 12, paragraph 2). In regards to McFarling, the counter is similar to the misprediction history register, since it contains data related to past mispredictions. A person of ordinary skill in the art at the time the invention was made would have recognized that the counter tracks which predictor is more accurate, thereby ensuring the combined branch predictor picks the best predictor to use and reducing mispredictions which cost time. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the misprediction history register of McFarling in the device of Patt.

28. Referring to claim 18, Patt has taught a final prediction to correlate to said misprediction value and said branch prediction value (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

29. Referring to claim 19, Patt has taught a logic gate to generate said final prediction (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

30. Referring to claim 20, Patt has taught a computer readable medium having stored a plurality of executable instructions, the plurality of instructions comprising instructions to:

- a. Receiving an index value and a branch prediction value correlating to said index value at a meta predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2); and
- b. Generating a misprediction value at said meta predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

31. Patt has not taught a misprediction history value. McFarling has taught a misprediction history value (McFarling page 12, paragraph 2). In regards to McFarling, the counter is similar to the misprediction history register, since it contains data related to past mispredictions. A person of ordinary skill in the art at the time the invention was made would have recognized that the counter tracks which predictor is more accurate, thereby ensuring the combined branch predictor picks the best predictor to use and reducing mispredictions which cost time. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the misprediction history register of McFarling in the device of Patt.

32. Referring to claim 21, Patt has taught an instruction to generate said branch prediction value at a branch predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

33. Referring to claim 22, Patt has taught an instruction to receive an index value at said branch predictor (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

34. Referring to claim 23, Patt has taught an instruction to generate a final prediction according to said branch prediction and said misprediction value (Patt page 252, column 2, paragraph 4; page 255, column 1, paragraph 2 to column 2, paragraph 3; and Figure 2).

***Response to Arguments***

35. Examiner withdraws the objection to the drawings in favor of the amended drawings.

36. Examiner withdraws the objection to the specification in favor of the arguments presented in regards to the drawings.

37. Applicant's arguments filed 19 August 2004, with respect to the rejection(s) of claim(s) 1-22 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the above rejection.

38. Applicant's arguments filed 19 August 2004 in regards to claims 24-27 have been fully considered but they are not persuasive. Applicant's argue in essence on page 7 "Applicants cannot find a misprediction register in the reference and thus submit that this step cannot be performed by the reference." This has not been found persuasive. Tran has a misprediction tag and branch tag shift that operate similarly to the misprediction register, since there is a signal as to whether the branch has been mispredicted or not and the branch shift register is updated accordingly so that it contains data about whether past branches were mispredicted or not.

***Conclusion***

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

- a. Yeh and Patt's "Alternative Implementations of Two-Level Adaptive Branch Prediction" has taught branch prediction with misprediction tracking.
- b. Jacobsen, Rotenberg, and Smith's "Assigning Confidence to Conditional Branch Predictions" has taught branch prediction with misprediction tracking.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aimee J Li whose telephone number is (571) 272-4169. The examiner can normally be reached on M-T 7:30am-5:00pm.

41. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Chan can be reached on (571) 272-4162. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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15 November 2004

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